

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED
OCT 06 2016
Clerk, U.S. District Court
District Of Montana
Missoula

ROBIN ASHTON,

CV 15-0088-M-DLC

Plaintiff,

vs.

ORDER

RICHARD DE JANA, DE JANA AND ASSOCIATES PLLC, FLATHEAD COUNTY, FLATHEAD COUNTY ATTORNEYEDCORRIGAN, TARA FUGINA, MARCIE HALL, FLATHEAD COUNTY SHERIFF'S DEPT., including ANIMAL CONTROL, OFFICER HARRISON, KALISPELL REGIONAL MEDICAL CENTER, LARISSA ROBERGE, AUDRA PAVON, AUSTIN HUGHES, VELINDA STEVENS, TAMI FISHER, SEAN GOICOECHEA, SIL VERTIP EMERGENCY PHYSICIANS, CLINICAL PATHOLOGY ASSOCIATES, KALISPELL REGIONAL HEALTHCARE, SHAN CORBAN, MAE STUBBS, TIM LOSEY, CREDIT SYSTEMS, CYNTHIA TADDA Y, ELIZABETH HAUSBECK, COLLECTION BUREAU SERVICES INC., and DOE DEFENDANTS #1-45, all individuals in personal and professional capacities,

Defendants.

This matter was dismissed with prejudice and judgment was entered on January 12, 2016. (Docs. 11, 12.) An Order denying Ms. Ashton's motion for reconsideration was issued September 13, 2016. (Doc. 17.) Ms. Ashton filed a Notice of Appeal on September 20, 2016. (Doc. 18.) The matter was referred back to this Court on September 27, 2016 for the limited purpose of determining whether in forma pauperis status should continue for the appeal or whether the appeal is frivolous or taken in bad faith. (Doc. 19.)

The Federal Rules of Appellate Procedure provide as follows:

[A] party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court-before or after the notice of appeal is filed-certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding;

Fed.R.App.P. 24(a)(3)(A).

Analogously, 28 U.S.C. § 1915(a)(3) provides “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” The good faith standard is an objective one. *See Coppededge v. United States*, 369 U.S. 438, 445 (1962). A plaintiff satisfies the “good faith” requirement if he or she seeks review of any issue that is “not frivolous.” *Gardner*

v. Pogue, 558 F.2d 548, 551 (9th Cir. 1977) (*quoting Coppedge*, 369 U.S. at 445).

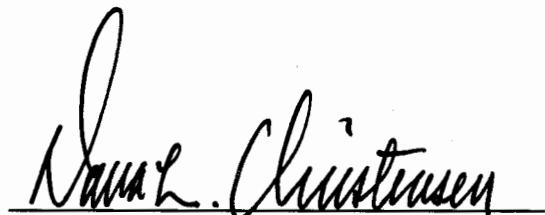
For purposes of section 1915, an appeal is frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325, 327 (1989); *Franklin v. Murphy*, 745 F.2d 1221, 1225 (9th Cir. 1984).

The record makes plain the instant appeal would be frivolous as it lacks arguable substance in law or fact. Any appeal of this decision would be frivolous.

IT IS HEREBY ORDERED THAT:

Ms. Ashton's appeal is frivolous and is not taken in good faith. Her in forma pauperis status is therefore REVOKED.

Dated this 6th day of October, 2016.


Dana L. Christensen
Dana L. Christensen, Chief Judge
United States District Court